

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X
THE FOOTBALL ASSOCIATION PREMIER	:
LEAGUE LIMITED, BOURNE CO. (together	:
with its affiliate MURBO MUSIC PUBLISHING,	:
INC.), CHERRY LANE MUSIC PUBLISHING	:
COMPANY, INC., CAL IV ENTERTAINMENT	:
LLC, ROBERT TUR d/b/a LOS ANGELES	:
NEWS SERVICE, NATIONAL MUSIC	:
PUBLISHERS' ASSOCIATION, THE	:
RODGERS & HAMMERSTEIN	:
ORGANIZATION, STAGE THREE MUSIC	:
(US), INC., EDWARD B. MARKS MUSIC	:
COMPANY, FREDDY BIENSTOCK MUSIC	:
COMPANY d/b/a BIENSTOCK PUBLISHING	:
COMPANY, ALLEY MUSIC CORPORATION,	:
X-RAY DOG MUSIC, INC., FÉDÉRATION	:
FRANÇAISE DE TENNIS, THE MUSIC FORCE	:
LLC, and SIN-DROME RECORDS, LTD. on	:
behalf of themselves and all others similarly	:
situated,	:
	:
Plaintiffs,	:
	:
v.	:
	:
YOUTUBE, INC., YOUTUBE, LLC and	:
GOOGLE, INC.,	:
	:
Defendants.	:
-----	X

07 Civ. 3582 (LLS)  
(related case no. 07 Civ. 2103 (LLS),  
the “*Viacom* action”)

**ECF CASE**

**CLASS PLAINTIFFS’**  
**NOTICE OF MOTION FOR**  
**CLASS CERTIFICATION**

PLEASE TAKE NOTICE THAT, pursuant to Fed. R. Civ. P. 23, the Class Plaintiffs shall move this Court, before the Hon. Louis L. Stanton, at the United States Court House, 500 Pearl Street, New York, New York, at a date and time to be set by the Court, for an Order certifying a Class of all persons and entities that:

- (a) own and/or control the copyright and/or the relevant exclusive rights in an original work, and for which a certificate of registration has been issued or

the deposit, application, and fee required for registration have been properly submitted to the U.S. Copyright Office;

- (b) own and/or control exclusive rights in an unregistered copyrighted work and will have registered that work prior to the time of final judgment in this action; and/or
- (c) own and/or control a work that does not require registration as a matter of law; which was, without authorization, reproduced, adapted, distributed, publicly displayed, performed or otherwise transmitted or disseminated on or through the YouTube.com website on or after April 15, 2005 through the deadline for submitting a claim form in this action.<sup>1</sup>

and certifying two Subclasses:

1. “Repeat Infringement Subclass”: All members of the above-defined class who:
  - (a) submitted to defendants a notification of infringement pursuant to 17 U.S.C. §512(c)(3) for a particular work, but either the infringing material identified in the notice remained on the site or substantially similar infringing material was reuploaded after the original material was removed or blocked; or
  - (b) submitted to defendants multiple notifications of infringement pursuant to 17 U.S.C. §512(c)(3), or representative lists of infringing material, but whose copyrighted content continued to appear on the YouTube site after such notifications, without authorization from the class member.
2. “Music Publisher Subclass”: All members of the above-defined class:
  - (a) who own and/or control one or more copyrighted musical composition(s) available on the YouTube site, which musical composition(s) defendants knew or should have known was on the YouTube site (because defendants were notified by the copyright holder or because defendants otherwise identified, tracked or monitored it, or could have identified it, including through tools offered to owners of sound recordings of musical compositions); and

---

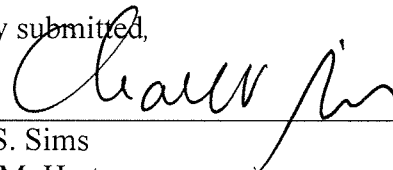
<sup>1</sup> Excluded from the class are: (a) defendants; (b) the subsidiaries and affiliates of defendants; (c) any person or entity who is a partner, officer, director, employee, or controlling person of any defendants; (d) any entity in which any defendant has a controlling interest; (e) any copyright holder who had authorized defendants to exploit such copyrights at the time defendants engaged in the complained of acts; (f) the legal representatives, heirs, successors, and assigns of any excluded parties.

(b) such musical composition was used without proper authorization on the YouTube site.<sup>2</sup>

PLEASE TAKE FURTHER NOTICE, that in support of this motion, the Class Plaintiffs shall rely on the accompanying Declaration of John C. Browne and the exhibits annexed thereto. The materials referenced above are being filed under seal pursuant to the stipulated protective order in this case, pending court rulings and/or agreements by the parties with respect to unsealing.

Dated: April 9, 2010

Respectfully submitted,

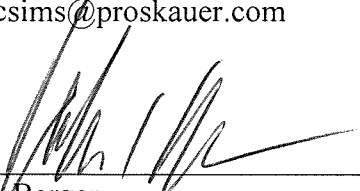


---

Charles S. Sims  
William M. Hart  
Noah Siskind Gitterman

PROSKAUER ROSE LLP  
1585 Broadway  
New York, NY 10036  
Telephone: (212) 969-3000  
Email: csims@proskauer.com

-and-



---

Max W. Berger  
John C. Browne  
Ann M. Lipton  
Lauren McMillen  
BERNSTEIN LITOWITZ BERGER &  
GROSSMANN LLP

---

<sup>2</sup> A music publisher subclass is appropriate because of the prevalence of unlicensed copyrighted music on YouTube and defendants' knowing disregard for the rights of many music publishers. There are two copyrights in a song – one in the sound recording of the song (typically owned or controlled by a record company), and a second in the underlying musical composition (typically owned or controlled by a music publisher). The evidence shows that defendants recognized the huge value in having music on the YouTube site and endeavored to make deals with, and acquire licenses from, major record companies for the sound recordings of popular music. YouTube knew that it also needed licenses for the underlying musical composition, but did not obtain the requisite musical composition rights from the music publishers (and nonetheless knowingly exploited these works on its site). See CP Mem. 12-14.

1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 554-1400  
Email: johnb@blbglaw.com  
*Attorneys For The Football Association  
Premier League Limited, Bourne Co., Murbo  
Music Publishing, Inc., Cherry Lane Music  
Publishing Company, Inc., Robert Tur d/b/a  
Los Angeles News Service, X-Ray Dog Music,  
Inc., and Fédération Française de Tennis and  
Proposed Class Counsel For The Prospective  
Class*

Louis M. Solomon  
Hal S. Shaftel  
CADWALADER, WICKERSHAM & TAFT,  
LLP  
One World Financial Center  
New York, NY 10281  
Telephone: (212) 504-6680  
*Attorneys For The Football Association  
Premier League Limited*

Daniel Girard  
Aaron Sheanin  
Christina Connolly Sharp  
GIRARD GIBBS LLP  
601 California Street, 14th Floor  
San Francisco, CA 94108

*-and-*

Gerald E. Martin  
Laurel Johnston  
BARRETT JOHNSTON & PARSLEY  
217 Second Avenue North  
Nashville, TN 37201

*-and-*

Kevin Doherty  
BURR & FORMAN LLP  
700 Two American Center  
3102 West End Avenue  
Nashville, TN 37203

*Attorneys for Cal IV Entertainment LLC*

David S. Stellings  
Annika K. Martin  
LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
250 Hudson Street, 8th Floor  
New York, NY 10017-2024  
Tel. (212) 355-9500  
Fax. (212) 355-9592

*-and-*

Jacqueline Charlesworth  
James E. Hough  
MORRISON & FOERSTER  
1290 Avenue of the Americas  
New York, New York 10104  
Phone (212) 468-8158  
Facsimile (212) 468-7900  
*Attorneys for the National Music Publishers'  
Association, Rodgers & Hammerstein  
Organization, Stage Three Music (US), Inc.,  
Edward B. Marks Music Company, Freddy  
Bienstock Music Company d/b/a Bienstock  
Publishing Company, and Alley Music  
Corporation*

Christopher Lovell  
Christopher M. McGrath  
LOVELL STEWART HALEBIAN LLP  
61 Broadway, Suite 501  
New York, New York 10110  
Telephone: (212) 608-1900  
Facsimile: (212) 719-4677

*-and-*

Jeffrey L. Graubart  
LAW OFFICES OF JEFFREY L.  
GRAUBART  
350 West Colorado Boulevard, Suite 200  
Pasadena, California 91105-1855  
Telephone: (626) 304-2800  
Facsimile: (626) 304-2807

*-and-*

Steve D'Onofrio  
5335 Wisconsin Avenue, N.W. Suite 950  
Washington, D.C. 20015  
Telephone: (202) 686-2872  
Facsimile: (202) 686-2875  
*Attorneys for The Music Force Media Group  
LLC, The Music Force LLC, and Sin-Drome  
Records, Ltd.*